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PART II—Section 2

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन
के रूप में रखा जा सके :

Separate paging is given to this Part in order that it may be filed
as a separate compilation

LOK SABHA

The following Bills were introduced in Lok Sabha on the 3rd Decem-
ber, 1985:—

BILL NO. 189 OF 1985

*A Bill to provide for the levy and collection, by way of a cess, of a duty of
customs on the export of certain agricultural and processed food
products for the development and promotion of their export and for
matters connected therewith.*

BE it enacted by Parliament in the ~~Thirty~~sixth Year of the Republic
of India as follows:—

1. (1) This Act may be called the Agricultural and Processed Food
Products Export Cess Act, 1985.

Short
title,
extent
and
commen-
cement.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government
may, by notification in the Official Gazette, appoint.

2. (1) In this Act, unless the context otherwise requires,—

Defini-
tions.

(a) "Authority" means the Agricultural and Processed Food
Products Export Development Authority established under section
4 of the Agricultural and Processed Food Products Export Develop-
ment Authority Act, 1985;

(b) "Scheduled product" means any product for the time being included in the Schedule to the Agricultural and Processed Food Products Export Development Authority Act, 1985.

(2) All words and expressions used in this Act and not defined, but defined in the Agricultural and Processed Food Products Export Development Authority Act, 1985, shall have the meanings respectively assigned to them in that Act.

Duties
of cus-
toms on
Scheduled
products.

3. (1) There shall be levied and collected by way of a cess for the purposes of the Agricultural and Processed Food Products Export Development Authority Act, 1985, a duty of customs at such rate not exceeding three per cent. *ad valorem* as the Central Government may, by notification in the Official Gazette, specify, on all Scheduled products, which are exported.

(2) The duties of customs levied under sub-section (1) on the Scheduled products shall be in addition to any cess or duty leviable on such Scheduled products under any other law for the time being in force.

(3) The provisions of the Customs Act, 1962 and the rules and regulations made thereunder, including those relating to refunds and exemptions from duty, shall, as far as may be, apply in relation to the levy and collection of the duty of customs leviable under sub-section (1) as they apply in relation to the levy and collection of the duties of customs under that Act or those rules and regulations.

53 of 1962

Credit of
proceeds
of duties
to Con-
solidated
Fund
of India.

4. The proceeds of the duties of customs levied under section 3 shall first be credited to the Consolidated Fund of India and the Central Government may, if Parliament, by appropriation made by law in this behalf, so provides, pay to the Authority, from time to time, from out of such proceeds, after deducting the expenses on collection, such sums of money as it may think fit for being utilised for the purposes of the Agricultural and Processed Food Products Export Development Authority Act, 1985.

STATEMENT OF OBJECTS AND REASONS

This Bill is complementary to the Agricultural and Processed Food Products Export Development Authority Bill, 1985. The Agricultural and Processed Food Products Export Development Authority Bill, 1985 seeks to provide for the establishment of an Authority to be called the Agricultural and Processed Food Products Export Development Authority and empower that Authority to promote export of agricultural and processed food products. In order to ensure that the said Authority has necessary resources to discharge its functions this Bill seeks to provide for the levy by way of a cess or a duty of customs on all the Scheduled products which are exported. The intention is to make over, after due appropriation by Parliament by law, the proceeds of the cess to the said Authority to enable it to discharge its functions effectively.

2. The Bill seeks to achieve the above objectives.

NEW DELHI;
The 16th November, 1985.

ARJUN SINGH.

FINANCIAL MEMORANDUM

With a view to ensuring that the Agricultural and Processed Food Products Export Development Authority provided for in the Agricultural and Processed Food Products Export Development Authority Bill, 1985, has necessary resources to discharge its functions, this Bill seeks to provide for levying by way of a cess, a duty of customs at such rate not exceeding 3 per cent. *ad valorem* as the Central Government may, by notification in the Official Gazette, specify on all Scheduled products which are exported (*vide* clause 3 of the Bill). The proceeds of the above-mentioned duty will be paid into the Consolidated Fund of India. Under clause 4 of the Bill, the Central Government may, if Parliament, by appropriation made by law in this behalf so provides, pay to the Authority from time to time out of such proceeds, after deducting the expenses on collection, such sums of money as it may think fit for being utilised for the purposes of the Agricultural and Processed Food Products Export Development Authority Act.

2. The collection of the above-mentioned duty of customs will involve some expenditure from the Consolidated Fund of India. It is not possible at this stage to estimate the amount of such expenditure as that will depend upon various contingencies such as the actual duty of customs levied on the Scheduled products, the quantity of the Scheduled products which may be exported, etc. However, it is tentatively estimated that the cost of collection of the duty of customs would be about 2 per cent. of the proceeds from this duty. Taking the total amount of duty of customs collected at Rs. 100 lakhs per annum on an average, the expenses of collection of the duty of customs would be about Rs. 2 lakhs. As only the balance of the proceeds after deducting the cost of the collection may be utilised for making payment to the Authority, there will, in fact, be no net out-go from the Consolidated Fund of India.

3. The expenditure on the collection of the duty will be of recurring nature and the Bill does not involve any other expenditure whether of a recurring or a non-recurring nature.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 3 of the Bill empowers the Central Government to specify the actual rate (not exceeding three per cent. *ad valorem*) of the duty of customs which shall be levied and collected on all Scheduled products which are exported.

2. The rate of actual duty depends upon the varying relevant circumstances and also on the financial requirements, from time to time, of the Agricultural and Processed Food Products Export Development Authority. The delegation of legislative power to the Central Government is thus of a normal character,

BILL NO. 190 OF 1985

A Bill to provide for the establishment of an Authority for the development and promotion of exports of certain agricultural and processed food products and for matters connected therewith.

BE it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the ~~Agricultural and Processed Food Products Export Development Authority Act, 1985.~~

Short
title,
extent
and
com-
mence-
ment.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act.

2. In this Act, unless the context otherwise requires,—

Defini-
tions.

(a) "Authority" means the Agricultural and Processed Food Products Export Development Authority established under section 4;

(b) "Chairman" means the Chairman of the Authority;

(c) "export" means taking out of India by land, sea or air;

(d) "exporter" means a person registered as an exporter of Scheduled products under section 12;

(e) "member" means a member of the Authority and includes the Chairman;

(f) "prescribed" means prescribed by rules made under this Act;

(g) "processing" in relation to Scheduled products includes the process of preservation of such products such as canning, freezing, drying, salting, packing, peeling or filleting and any other method of processing which the Authority may, by notification in the Official Gazette, specify in this behalf;

(h) "regulations" means regulations made under this Act;

(i) "Scheduled product" means any of the agricultural or processed food products included in the Schedule.

Power
to
amend
Sche-
dule.

3. The Central Government may, having regard to the objects of this Act, and if it considers necessary or expedient so to do, by notification in the Official Gazette, add to, or, as the case may be, omit from, the Schedule any agricultural or processed food product and on such addition, or as the case may be, omission, such product shall be, or shall cease to be, a Scheduled product.

CHAPTER II

AGRICULTURAL AND PROCESSED FOOD PRODUCTS EXPORT DEVELOPMENT AUTHORITY

Establish-
ment
and
consti-
tution of
the
Autho-
rity.

4 (1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf, there shall be established for the purposes of this Act, an Authority to be called the Agricultural and Processed Food Products Export Development Authority.

(2) The Authority shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall by the said name sue and be sued.

(3) The head office of the Authority shall be at Delhi and the Authority may, with the previous approval of the Central Government, establish offices or agencies at other places in our outside India.

(4) The Authority shall consist of the following members, namely:—

(a) a Chairman, to be appointed by the Central Government;

(b) the Agricultural Marketing Adviser to the Government of India, *ex officio*;

(c) one member to be appointed by the Central Government to represent the Planning Commission;

(d) three members of Parliament of whom two shall be elected by the House of the People and one by the Council of States;

(e) eight members to be appointed by the Central Government to represent, respectively, the Ministries of the Central Government dealing with—

- (i) agriculture and rural development;
- (ii) commerce;
- (iii) finance;
- (iv) industry;
- (v) food;
- (vi) civil supplies;
- (vii) civil aviation;
- (viii) shipping and transport;

(f) five members to be appointed by the Central Government by rotation in the alphabetical order to represent the States and the Union territories;

Provided that an appointment under this clause shall be made on the recommendation of the Government of the State or the Union territory concerned;

(g) seven members to be appointed by the Central Government to represent,—

- (i) the Indian Council of Agricultural Research;
- (ii) the National Horticulture Board;
- (iii) the National Agricultural Cooperative Marketing Federation;
- (iv) the Central Food Technological Research Institute;
- (v) the Indian Institute of Packaging;
- (vi) the Spices Export Promotion Council;
- (vii) the Cashewnut Export Promotion Council;

(h) twelve members to be appointed by the Central Government to represent,—

- (i) fruit and vegetable products industries;
- (ii) meat, poultry and dairy products industries;
- (iii) other Scheduled products industries;
- (iv) packaging industry;

Provided that the number of members appointed to represent any of the groups of industries specified in sub-clause (i), (ii) or the industry specified in sub-clause (iv) shall in no case be less than two;

(i) two members to be appointed by the Central Government from amongst specialists and scientists in the field of agriculture, economic and marketing of Scheduled products.

(5) The term of office of the members, other than the member referred to in clause (b) of sub-section (4) and the manner of filling vacancies among, and the procedure to be followed in the discharge of their functions by, the members shall be such as may be prescribed.

(6) Any officer of the Central Government, not being a member of the Authority, when deputed by that Government in this behalf, shall have the right to attend meetings of the Authority and take part in the proceedings thereof but shall not be entitled to vote.

(7) No act or proceeding of the Authority or any committee appointed by it under section 9 shall be invalidated merely by reason of—

(a) any vacancy in, or any defect in the constitution of, the Authority or such committee; or

(b) any defect in the appointment of a person acting as a member of the Authority or such committee; or

(c) any irregularity in the procedure of the Authority or such committee not affecting the merits of the case.

(8) The Authority shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at its meetings) as may be provided by the regulations.

5. (1) The Chairman shall be entitled to such salary and allowances and shall be subject to such conditions of service in respect of leave, pension, provident fund and other matters as may, from time to time, be fixed by the Central Government.

(2) The other members of the Authority shall receive such allowances as may be fixed by the Central Government.

(3) A member, other than the *ex officio* member, may resign his office by giving notice thereof in writing to the Central Government and on such resignation being accepted, he shall be deemed to have vacated his office.

6. The Chairman shall be the chief executive of the Authority and shall exercise such powers and perform such duties as may be prescribed.

7. (1) The Central Government shall appoint a Secretary to the Authority who shall exercise such powers and perform such duties as may be prescribed or as may be delegated to him by the Chairman.

(2) The Secretary shall be entitled to such salary and allowances and shall be subject to such conditions of service in respect of leave, pension, provident fund and such other matters as may, from time to time, be fixed by the Central Government.

(3) Subject to such control and restrictions as may be prescribed, the Authority may appoint such other officers and employees, as may be necessary,

Salary
and
allow-
ances and
other
con-
ditions of
service
of
Chairman
and
allow-
ances
of
members.

Chairman
to be
chief exe-
cutive.

Secretary
of the
Autho-
rity
and
other
staff.

for the efficient performance of its functions and the method of appointment the scale of pay and allowances and other conditions of service of such other officers and employees of the Authority shall be such as may be provided by the Authority by regulations.

(4) The Chairman, the Secretary and other officers and employees of the Authority shall not undertake any work unconnected with their duties under this Act except with the permission of the Central Government.

8 (1) On the establishment of the Authority, it shall be lawful for the Central Government to transfer to the Authority, by order, and with effect from such date or dates as may be specified in the order, any officer or other employee holding office as such in the Processed Foods Export Promotion Council (hereafter in this section referred to as the Council) immediately before the date on which the Authority is established:

Special provision for transfer of employees to the Authority

Provided that the scale of pay of the post in the Authority to which such officer or other employee is transferred shall not be lower than the scale of pay of the post he was holding immediately before such transfer and the other terms and conditions of service (including pension, leave, provident fund and medical benefits) of the post to which he is transferred shall not be less favourable than the terms and conditions of service in relation to the post held by him immediately before such transfer.

(2) An order under sub-section (1) may be made so as to have retrospective effect from a date not earlier than the date of the commencement of this Act.

(3) Before any order is issued under sub-section (1), all officers and employees of the Council shall be given an option to express, in such form as may be prescribed, and within such time as may be specified in that behalf by the Central Government, their willingness or otherwise to become employees of the Authority and such option once exercised shall be final:

Provided that no order under sub-section (1) shall be made in relation to any officer or other employee of the Council who has intimated his intention of not becoming an employee of the Authority within the time specified in that behalf:

Provided further that such of the officers and employees of the Council who do not express, within the time specified in that behalf, their intention of becoming the employees of the Authority, shall be dealt with in the same manner and in accordance with the same laws and standing orders as would have applied immediately before the commencement of this Act to the employees of the Council in the event of the reduction of the strength of the officers and employees of the Council.

(4) An officer or other employee transferred by an order made under sub-section (1) shall, on and from the date of transfer, cease to be an employee of the Council and become an officer or other employee of the Authority with such designation as the Authority may determine and shall, subject to the provisions of the proviso to sub-section (1), be governed by the regulations made by the Authority under this Act in respect of remuneration and other conditions of service (including pension, leave, provident fund and medical benefits) and shall continue to be an officer or other employee of the Authority unless and until his employment is duly terminated by the Authority:

Provided that till such time as the regulations referred to above governing the conditions of service of its officers or other employees are framed by the Authority, the relevant laws and standing orders applicable to the officers and employees of the Council shall continue to be applicable to them.

(5) If a question arises whether the terms and conditions of service prescribed in the regulations framed by the Authority in respect of any matter, including remuneration, pension, leave, provident fund and medical benefits, are less favourable than those attached to the post held by an officer or other employee immediately before his transfer to the Authority, the decision of the Central Government in the matter shall be final.

Com-
mittees
of the
Autho-
rity.

9. (1) The Authority may appoint such committees as may be necessary for the efficient discharge of its duties and performance of its functions under this Act.

(2) The Authority shall have the power to co-opt as members of any committee appointed under sub-section (1) such number of persons, who are not members of the Authority, as it may think fit and the persons so co-opted shall have the right to attend the meetings of the committee and take part in its proceedings but shall not have the right to vote.

(3) The persons co-opted as members of a committee under sub-section (2) shall be entitled to receive such allowances for attending meetings of the committee as may be fixed by the Central Government.

Functions
of the
Autho-
rity.

10. (1) It shall be the duty of the Authority to undertake, by such measures as it thinks fit, the development and promotion, under the control of the Central Government, of export of Scheduled products.

(2) Without prejudice to the generality of the provisions of sub-section (1), the measures referred to therein may provide for—

(a) the development of industries relating to the Scheduled products for export by way of providing financial assistance or otherwise for undertaking surveys and feasibility studies, participation in the equity capital through joint ventures and other reliefs and subsidy schemes;

(b) the registration of persons as exporters of the Scheduled products on payment of such fees as may be prescribed;

(c) the fixing of standards and specifications for the Scheduled products for the purposes of export;

(d) the carrying out of inspection of meat and meat products in any slaughterhouse, processing, plant, storage premises, conveyances or other places where such products are kept or handled for the purpose of ensuring the quality of such products;

(e) the improving of packaging of the Scheduled products;

(f) the improving of the marketing of the Scheduled products outside India;

(g) the promotion of export oriented production and development of the Scheduled products;

(h) the collection of statistics from the owners of factories or establishments engaged in the production, processing, packaging,

marketing or export of the Scheduled products or from such other persons as may be prescribed on any matter relating to the Scheduled products; and the publication of the statistics so collected, or of any portions thereof or extracts therefrom;

(i) the training in various aspects of the industries connected with the Scheduled products;

(j) such other matters as may be prescribed.

11. (1) If the Central Government is of the opinion that the Authority is unable to perform, or has persistently made default in the performance of, the duty imposed on it by or under this Act or has exceeded or abused its powers, or has wilfully or without sufficient cause, failed to comply with any direction issued by the Central Government under section 20, the Central Government may, by notification in the Official Gazette, supersede the Authority for such period as may be specified in the notification:

Power to supersede the Authority.

Provided that before issuing a notification under this sub-section, the Central Government shall give reasonable time to the Authority to show cause why it should not be superseded and shall consider the explanation and objections, if any, of the Authority.

(2) Upon the publication of a notification under sub-section (1) superseding the Authority,—

(a) all the members of the Authority shall, notwithstanding that their term of office has not expired as from the date of supersession, vacate their offices as such members;

(b) all the powers and duties which may, by or under the provisions of this Act, be exercised or performed by or on behalf of the Authority shall, during the period of supersession, be exercised and performed by such person or persons as the Central Government may direct;

(c) all property vested in the Authority shall, during the period of supersession, vest in the Central Government.

(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government may—

(a) extend the period of supersession for such further period as it may consider necessary; or

(b) reconstitute the Authority in the manner provided in section 4.

CHAPTER III

REGISTRATION

12. (1) Every person exporting any one or more of the Scheduled products shall, before the expiration of one month from the date on which he undertakes such export or before the expiration of three months from the date of coming into force of this section, whichever is later, apply to the Authority to be registered as an exporter of the Scheduled product or Scheduled products:

Registration of exporters.

Provided that the Authority may, for sufficient reason, extend the time-limit for registration by such period as it thinks fit.

(2) Registration once made shall continue to be in force until it is cancelled by the Authority.

Applica-
tion, can-
cella-
tion, fee
payable
and
other
matters
rela-
ting
to re-
gistra-
tion.

13. The form of application for registration under section 12 and for the cancellation of such registration, the fee payable on such applications, the particulars to be included in such applications, the procedure to be followed in granting and cancelling registration and the registers to be kept by the Authority shall be such as may be prescribed.

Returns
to be
made
by ex-
porters.

14. (1) Every exporter, referred to in sub-section (1) of section 12, shall furnish to the Authority at the prescribed time and in the prescribed manner such returns as may be prescribed.

(2) The Authority may authorise a member or any of its officers to inspect any processing plant or any other establishment of the exporter at any time to verify the accuracy of any return made under this section.

CHAPTER IV

FINANCE, ACCOUNTS AND AUDIT

Grants
or loans
by the
Central
Govern-
ment.

(15) The Central Government may, after due appropriation made by Parliament by law in this behalf, pay to the Authority by way of grants or loans such sums of money as the Central Government may think fit for being utilised for the purposes of this Act.

Consti-
tution of
Agricul-
tural and
Processed
Food
Products
Export
Deve-
lopment
Fund.

16. (1) There shall be formed a Fund to be called the Agricultural and Processed Food Products Export Development Fund and there shall be credited thereto—

(a) any sums of money which the Central Government may, after due appropriation made by Parliament by law in this behalf, provide from and out of the proceeds of cess credited under section 4 of the Agricultural and Processed Food Products Export Cess Act, 1985, after deducting therefrom the expenses of collection of the cess and the amount, if any, refunded;

(b) all fees levied and collected in respect of registration and other matters, under this Act or the rules made thereunder;

(c) any grants or loans that may be made by the Central Government for the purposes of this Act under section 15; and

(d) any grants or loans that may be made by any State Government, voluntary organisation or other institution for the purposes of this Act:

Provided that no such grant, loan or donation shall be credited to the Fund except with the prior approval of the Central Government.

(2) The Fund shall be applied for—

(a) meeting the cost of the measures referred to in section 10;

(b) meeting the salaries, allowances and other remuneration of the members, officers and other employees, as the case may be, of the Authority;

(c) meeting the other administrative expenses of the Authority and any other expenses authorised by or under this Act; and

(d) repayment of any loan.

17. Subject to such rules as may be made in this behalf, the Authority shall have power to borrow on the security of the Agricultural and Processed Food Products Export Development Fund or any other asset for carrying out the purposes of this Act.

Borrow-
ing
powers
of the
Autho-
rity.

18. (1) The Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

Accounts
and
audit.

(2) The accounts of the Authority shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Authority to the Comptroller and Auditor-General.

(3) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the Authority shall have the same rights and privileges and the authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Authority.

(4) The accounts of the Authority as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

CHAPTER V

CONTROL BY THE CENTRAL GOVERNMENT

Power
to pro-
hibit
or con-
trol
imports
and
exports
of Sched-
uled
pro-
ducts.

19. (1) The Central Government may, by order published in the Official Gazette, make provision for prohibiting, restricting or otherwise controlling the import or export of the Scheduled products, either generally or in specified classes of cases.

(2) All Scheduled products to which any order under sub-section (1) applies, shall be deemed to be goods of which the export has been prohibited under section 11 of the Customs Act, 1962, and all the provisions of that Act shall have effect accordingly.

52 of 1962.

(3) If any person contravenes any order made under sub-section (1), he shall, without prejudice to any confiscation or penalty to which he may be liable under the provisions of the Customs Act, 1962, as applied by sub-section (2), be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

52 of 1962.

Direc-
tions by
the
Central
Govern-
ment.

20. The Authority shall carry out such directions as may be issued to it from time to time by the Central Government for the efficient administration of this Act.

Returns
and
reports.

21. (1) The Authority shall furnish to the Central Government at such time and in such form and manner as may be prescribed or as the Central Government may direct, such returns and statements and such particulars in regard to any proposed or existing programme for the promotion and development of the export of the Scheduled products, as the Central Government may, from time to time, require.

(2) Without prejudice to the provisions of sub-section (1), the Authority shall, as soon as possible, after the end of each financial year, submit to the Central Government a report in such form and before such date, as may be prescribed, giving a true and full account of its activities, policy and programmes during the previous financial year.

(3) A copy of the report received under sub-section (2) shall be laid, as soon as may be, after it is received, before each House of Parliament.

CHAPTER VI

MISCELLANEOUS

Penalty
for
making
false
reports.

22. Any person who, being required by or under this Act to furnish any return, fails to furnish such return or furnishes a return containing any particular which is false and which he knows to be false or does not believe to be true shall be punishable with fine which may extend to five hundred rupees.

23. Any person who—

(a) obstructs any member authorised by the Chairman in writing or any officer or other employee of the Authority authorised in this behalf by the Central Government or by the Authority, in the exercise of any power conferred, or in the discharge of any duty imposed on him by or under this Act; or

(b) having control over or custody of any account book or other record fails to produce such book or record when required to do so by or under this Act,

shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Penalties
for
obstruc-
ting a
member
or
officer
of the
Autho-
rity in
the
dis-
charge
of his
duty
and
for
failure
to
produce
books
and
records.

24. Whoever contravenes or attempts to contravene or abets the contravention of the provisions of this Act or of any rules made thereunder other than the provisions, the punishment for the contravention whereof has been provided for in sections 19, 22 and 23, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both and in the case of a continuing contravention with an additional fine which may extend to fifty rupees for every day during which such contravention continues after conviction for the first such contravention.

Other
penal-
ties.

25. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences
by com-
panies

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

Jurisdiction of court.

26. No court inferior to that of a Metropolitan Magistrate or a Magistrate of the first class shall try any offence punishable under this Act.

Previous sanction of the Central Government.

27. No prosecution for any offence punishable under this Act shall be instituted except with the previous sanction of the Central Government.

Protection of action taken in good faith.

28. No suit, prosecution or other legal proceedings shall lie against the Central Government, or the Authority or any committee appointed by it, or any member of the Authority or such committee, or any officer or other employee of the Central Government or of the Authority or any other person authorised by the Central Government or the Authority, for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

Power to delegate.

29. The Central Government may, by order published in the Official Gazette, direct that any power exercisable by it under this Act (not being the power to make rules under section 32) may also be exercised in such cases and subject to such conditions, if any, as may be specified in the order, by such officer or authority as may be specified therein.

Suspension of operation of this Act.

30. (1) If the Central Government is satisfied that circumstances have arisen rendering it necessary that certain of the restrictions imposed by this Act should cease to be imposed or if it considers necessary or expedient so to do in the public interest, it may, by notification in the Official Gazette, suspend or relax to such extent and either indefinitely or for such period as may be specified in the notification, the operation of all or any of the provisions of this Act.

(2) Where the operation of any provision of this Act has under sub-section (1) been suspended or relaxed indefinitely, such suspension or relaxation may, at any time while this Act remains in force, be removed by the Central Government by notification in the Official Gazette.

Application of other laws not barred.

31. The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force.

Power to make rules.

32. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the term of office of the members [other than the member referred to in clause (b) of sub-section (4) of section 4], the manner of filling vacancies among, and the procedure to be followed in the discharge of their functions by the members, under sub-section (5) of section 4;

(b) the powers which may be exercised and the duties which may be performed by the Chairman as the chief executive of the Authority under section 6;

(c) the powers which may be exercised and the duties which shall be performed by the Secretary of the Authority under sub-section (1) of section 7;

(d) the control and restrictions subject to which other officers and employees may be appointed by the Authority under sub-section (3) of section 7;

(e) the form in which and the time within which option may be given by the officers and employees of the Processed Foods Export Promotion Council under sub-section (3) of section 8;

(f) payment of fees for the registration of exporters of Scheduled products under clause (b) of sub-section (2) of section 10;

(g) persons other than the owners from whom the collection of statistics in respect of any matter relating to Scheduled products may be made under clause (h) of sub-section (2) of section 10;

(h) the additional matters in respect of which the Authority may undertake measures in the discharge of its functions under clause (j) of sub-section (2) of section 10;

(i) the form and the manner of making application for registration and for cancellation of registration, the fee payable on such application and the procedure to be followed in granting and cancelling registration and the conditions governing such registration, under section 13;

(j) the time at which and the manner in which an exporter shall furnish returns to the Authority under sub-section (1) of section 14;

(k) the form in which the accounts of the Authority shall be maintained under sub-section (1) of section 18;

(l) the form and manner in which and the time at which the Authority shall furnish returns and statements to the Central Government under sub-section (1) of section 21;

(m) the form in which and the date before which the Authority shall furnish to the Central Government the report of its activities and programme under sub-section (2) of section 21;

(n) any other matter which is to be or may be prescribed under this Act.

33. (1) The Authority may, with the previous sanction of the Central Government, by notification in the Official Gazette, make regulations not inconsistent with the provisions of this Act and the rules made thereunder, to provide for all matters for which provision is necessary or expedient for the purposes of giving effect to the provisions of this Act.

Power to make regulations.

(2) In particular, and without prejudice to the generality of the foregoing powers, such regulations may provide for all or any of the following matters, namely:—

(a) the times and places at which meetings of the Authority or any committee thereof, shall be held and the procedure to be followed thereat and the number of members which shall form a quorum at a meeting under sub-section (8) of section 4;

(b) the method of appointment, the conditions of service and the scales of pay and allowances of any of the officers and other employees of the Authority under sub-section (3) of section 7;

(c) generally for the efficient conduct of the affairs of the Authority.

(3) The Central Government may, by notification in the Official Gazette modify or rescind any regulation sanctioned by it and the regulation so modified or rescinded shall have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or rescission shall be without prejudice to the validity of anything done under the regulation before its modification or rescission.

Rules
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34. Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation, as the case may be, or both Houses agree that the rule or regulation, as the case may be, should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

THE SCHEDULE

[See section 2(i)]

1. Fruits, vegetables and their products.
2. Meat and meat products.
3. Poultry and poultry products.
4. Dairy products.
5. Confectionary, biscuits and bakery products.
6. Honey, jaggery and sugar products.
7. Cocoa and its products, chocolates of all kinds.
8. Alcoholic and non-alcoholic beverages.
9. Cereal products.
10. Cashewnuts, groundnuts, peanuts and walnuts.
11. Pickles, chutneys and papads.
12. Guar gum.
13. Floriculture and floriculture products.
14. Herbal and medicinal plants.

STATEMENT OF OBJECTS AND REASONS

Agricultural sector of the economy contributes significantly to our exports and would have to continue to do so. Increasing reliance shall, however, have to be placed on exports of agricultural and processed food products which lead to higher realisation through added value. Value addition would also generate economic activity and employment in the country.

2. Although the potential for exports of processed food products is good, there have been several constraints inhibiting its growth. The food processing industry is by and large in the small scale sector using technology of processing and packaging which is outdated. In order to have a stable market, it is necessary to guarantee the strict standards of quality expected by importing countries and to maintain consistency. This would require inputs of research technology and a considerable degree of organisational effort.

3. At present the Processed Foods Export Promotion Council looks after exports of these products. The Council does not have any statutory backing to undertake quality control. It is also not equipped to generate production of value added products or to effectively promote their exports. It has, therefore, been considered necessary to replace the Council by a statutory authority to be designated as the Agricultural and Processed Food Products Export Development Authority. It will co-ordinate its activities with the national bodies like Horticulture Board and State Governments for generating production for export and with research institutes for development of value added products. It would also be able to undertake quality certification and unify the existing inspection and quality control for products such as meat and meat products.

4. In order to enable the authority to discharge its functions effectively it is proposed, by a separate Bill, to provide for the levy by way of a cess of the duty of the customs on all the Scheduled products which are exported. The intention is to make over, after due appropriation by Parliament, by law the proceeds of the cess to the Authority.

5. The Authority is proposed to be constituted, among others, with representatives of the Central and State Governments, Parliament, trade, Export Promotion Councils and specialists in the field. The main functions proposed to be assigned to this Authority are to develop processed food industry by way of providing financial assistance for undertaking surveys and feasibility studies, participation in the equity capital through joint ventures and other relief and subsidy schemes, registration of exporters of the Scheduled products, fixing of standards and specifications for Scheduled products for purposes of exports, carrying out inspection of meat and meat products in any slaughterhouse, processing plant, etc., improvement in packaging of Scheduled products and marketing of the products outside India and promotion of export-oriented production and product development of Scheduled products. The Bill contains a provi-

sion that it shall be the duty of the Authority to provide, by such measures as it thinks fit, the development and promotion under the control of the Central Government, of export of agricultural and processed food products included in the Schedule thereof mainly with a view to enabling it to undertake the activities mentioned above. Power has also been taken for the Central Government to prohibit or control the imports and exports of the Scheduled products.

6. The Bill seeks to achieve the above objects.

NEW DELHI;

ARJUN SINGH.

The 16th November, 1985.

Notes on clauses

Clause 1.—This clause specifies the title of the Act, the extent of its application and date of its commencement.

Clause 2.—This clause contains the definitions of various words and expressions used in the Act.

Clause 3.—This clause empowers the Central Government to amend the list of products specified in the Schedule.

Clause 4.—This clause empowers the Central Government to establish and constitute an Authority to be called the Agricultural and Processed Food Products Export Development Authority to administer the Act (hereinafter referred to as the Authority).

Clause 5.—This clause empowers the Central Government to fix the salary and allowances and other conditions of service of the Chairman of the Authority.

Clause 6.—This clause lays down that the Chairman shall be the chief executive of the Authority and shall exercise such powers and perform such duties as may be prescribed.

Clause 7.—This clause empowers the Central Government to appoint a Secretary to the Authority and prescribe his powers and duties, salaries and allowances and other conditions of service.

Clause 8. This clause empowers the Central Government to transfer employees of the Processed Foods Export Promotion Council to the Authority.

Clause 9.—This clause provides for the constitution of its committees by the Authority.

Clause 10.—This clause defines the functions of the Authority.

Clause 11.—This clause provides for the supersession of the Authority by the Central Government.

Clause 12.—This clause provides for compulsory registration of exporters of the Scheduled products.

Clause 13.—This clause deals with the procedure of registration of exporters and the fees payable for such registration.

Clause 14.—This clause provides for the submission of periodical returns by exporters.

Clause 15.—This clause enables the Central Government to pay grants and loans and other sums of money to the Authority.

Clause 16.—This clause provides for the constitution of the Agricultural and Processed Food Products Export Development Fund.

Clause 17.—This clause enables the Authority to borrow funds.

Clause 18.—This clause deals with the maintenance of proper accounts by the Authority and its audit by the Comptroller and Auditor-General of India.

Clause 19.—This clause enables the Central Government to prohibit, restrict or otherwise control, import or export the Scheduled products.

Clause 20.—This clause empowers the Central Government to issue directions to the Authority for the efficient administration of the Act.

Clause 21.—This clause requires the Authority to furnish periodical returns and reports to the Central Government.

Clause 22.—This clause provides for penalties for making false reports.

Clause 23.—This clause provides for penalties for restricting a member or officer of the Authority to discharge his duty and for failure to produce books and records.

Clause 24.—This clause provides for penalties for the contravention of the provisions of the Act other than those provided for in clauses 19, 22 and 23 and for contraventions of rules made under the Act.

Clause 25.—This clause fixes criminal liability on the directors and officers of companies for the offences committed by the companies.

Clause 26.—This clause deals with the jurisdiction of criminal courts to try offences under the Act.

Clause 27.—This clause lays down that the previous sanction of the Central Government would be necessary for prosecution under the Act.

Clause 28.—This clause provides for protection to the Government, the Authority and any members and officers thereof for anything done or intended to be done in good faith under the Act.

Clause 29.—This clause empowers the Central Government to delegate its powers (except power to make rules) to any officer or the Authority.

Clause 30.—This clause empowers the Central Government to suspend or relax in public interest any restriction imposed by the Act.

Clause 31.—This clause lays down that the provision of the Act shall be in addition to and not in derogation of the provisions of any other law.

Clause 32.—This clause empowers the Central Government to make rules for carrying out the purposes of the Act.

Clause 33.—This clause empowers the Authority to make regulations for the purpose of giving effect to the provisions of the Act.

Clause 34.—This clause lays down that every rule and regulation made under the Act shall be laid before each House of Parliament.

FINANCIAL MEMORANDUM

Sub-clauses (1), (3) and (4) of clause 4 of the Bill provide respectively for the establishment, offices and constitution of the Agricultural Processed Food Products Export Development Authority. Clause 5 provides that the Chairman of the Authority shall be entitled to such salaries and allowances as may be fixed by the Central Government. The allowances payable to the other members will have to be prescribed by rules under clause 32 of the Bill. Clause 7 provides for the appointment of the Secretary, other officers and employees of the Authority. The Secretary will be entitled to such salaries and allowances as may be determined by the Central Government. The other officers and employees of the Authority will be entitled to such salaries and allowances as may be provided for by regulations under clause 33(2)(b).

2. Clause 10 provides for the functions of the Authority and these include, *inter alia*, the development of industries relating to the Scheduled products for export by way of providing financial assistance or otherwise for undertaking surveys and feasibility studies, participation in the equity capital through joint ventures and other reliefs and subsidy schemes.

3. The afore-mentioned provisions of the Bill involve expenditure towards:—

(a) payment of salaries, allowances, etc., of the Chairman, members, officers and other employees of the Authority, and

(b) meeting other administrative expenses of the Authority including expenses for discharging its functions.

4. Clause 16 of the Bill provides for the constitution of a Fund to be called the Agricultural and Processed Food Products Export Development Fund and the Fund is to be applied for meeting the afore-mentioned expenditure. The Fund will consist, *inter alia*, of various fees which will be collected by the Authority, the sums paid to it by the Central Government (*vide* clause 15) or by any person and the sums realised by the Authority in the discharge of its functions.

5. It is not possible at the present stage to indicate the expenditure involved. However, it is estimated that a non-recurring expenditure of Rs. 20,00,000 is likely to be incurred initially on the establishment of the Authority. A recurring expenditure of about Rs. 80,00,000 per annum is likely to be incurred by the Authority. When the Authority expands its activities, its expenditure may increase. The Authority will meet its expenditure from its own fund and payments made to it by the Central Government after due appropriation made by Parliament by law in that behalf.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 3 of the Bill empowers the Central Government to add to, or omit from, the Schedule to the Bill any agricultural or processed food product.

2. Clause 5 empowers the Central Government to fix salary and allowances of the Chairman and allowances of other members of the Agricultural and Processed Food Products Export Development Authority.

3. Clause 9 empowers the Central Government to fix the allowance of the co-opted members attending the meetings of the committees of the Authority.

4. Clause 32 gives power to the Central Government to make rules to carry out the purposes of the legislation. The matters in respect of which rules may be made relate, *inter alia* to the term of office and other conditions of service of the members of the Authority, the powers which may be exercised and the duties which may be performed by the Chairman as the Chief Executive of the Authority and also by the Secretary of the Authority, the control and restrictions subject to which other officers and employees of the Authority may be appointed; the form in which option may be given by the officers and employees of the Processed Foods Export Promotion Council; the payment of fees for the registration of exporters of the Scheduled products; the form and manner in which the accounts of the Authority are to be maintained and other matters of procedural or administrative nature.

5. Clause 33 empowers the Authority to make regulations not inconsistent with the proposed legislation and the rules made thereunder for enabling the Authority to discharge its functions. The matters in relation to which the Authority may make regulations have been detailed in sub-clause (2) of the clause. The matters, *inter alia*, relate to the times and places at which meetings of the Authority or any committee thereof shall be held and the procedure to be followed thereat; the method of appointment, the conditions of service and the scale of pay and allowances of the officers and employees of the Authority.

6. The delegation of power under clause 3 is considered necessary with a view to enable the Central Government to effect necessary changes in the Schedule to meet the requirements of changing conditions of international market and thereby promote the export of agricultural and processed food products. The delegation of legislative power under the remaining clauses relates to administrative detail and procedure and is of routine nature. The delegation of legislative power involved is, therefore, of a normal character.

SURHASH C. KASHYAP,
Secretary-General.